

ORDINANCE NO. 2016- 19

ORDINANCE ESTABLISHING RULES AND REGULATIONS FOR
THE BILLING, COLLECTION AND DISCONNECTION OF ELECTRIC,
WATER, WASTEWATER, TRASH AND STORM WATER SERVICES

WHEREAS, pursuant to Ind. Code §36-9-2-15, the Town of Chalmers ("Town")
Furnishes electrical, water, wastewater, trash and storm water services to the public;

WHEREAS, pursuant to Ind. Code § 8-1.5-3, the Town's municipal electrical utility and
water utility were taken out of the jurisdiction of the Indiana Utility Regulatory Commission for
the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of
indebtedness;

WHEREAS, the Town has the duty to its electrical, water, wastewater, trash and storm
water ratepayers to establish reasonable and just rates and charges for its utility services that are
sufficient to maintain its utility property in a sound physical and financial condition in order to
render adequate and efficient service;

WHEREAS, the Town desires to protect its ratepayers from the expenses associated with
furnishing electrical, water, wastewater, trash and storm water services to customers with
delinquent utility bills; and

WHEREAS, the Town has determined that it is in the best interest of the Town's
municipal utility ratepayers to establish policies and procedures governing the billing, collection
and disconnection of electric, water and trash services for nonpayment of electric, water,
wastewater, trash and storm water charges that are legally due.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF
CHALMERS, INDIANA, THAT:

Section 1:

The following are hereby adopted as the rules, regulations, and conditions applying to utility service hereafter furnished by the Town.

Section 2. Definitions.

- A. "Customer" means any person, firm or corporation that has agreed orally or otherwise to pay for electrical, water, wastewater, trash or storm water services from the Town.
- B. "Disconnection" means the termination or discontinuance of electrical, water or trash service.
- C. "Late payment charge" means the penalty assessed by the Town upon all current bills at such time as they become delinquent.
- D. "Residential Customer" means a customer who has established an account with the Town for electrical, water, wastewater, trash and storm water services for an individual residence, including a mobile home or trailer, or a room or combination of rooms with facilities for living for a single household.
- E. "Commercial Customer" means a customer that is not a Residential Customer that has established a commercial account with the Town as shown by the records of the utilities.

Section 3. Billing Procedures

- A. Meter reading shall take place between the last three days of each month. The meters to be read are water and electric. All meters must be accessible at all times and must not be obstructed by vegetation, walls, vehicles or any other obstruction. All electric meters are to be at least 4' from the ground but no higher than 5' from the ground. All water meters

must be cleared of any and all debris prior to the end of the month so as to provide access for the Town employees to read.

- B. A billing statement will be completed and mailed to all customers by the 5th of each month. Payment shall be due on the 19th of each month.
- C. Payment can be mailed to the Town Hall or delivered to the Town Hall.

Payments are non-negotiable by the Utility Clerk. Payments will be applied in the following manner: First, trash; Second, stormwater; and Third, equally divided between electric, water and wastewater, with penalties and interest coming out first.

- D. A late payment charge of \$10 for each \$100 outstanding shall be charged to the customer's account for each month that the account is not paid by the due date. Penalties will apply beginning on the 20th day of each month. If said bill is not paid 10 days after the due date, there will be a disconnect notice delivered 3 days prior to the disconnection of utilities to the residence. Residents will have 72 hours from said notice to pay the outstanding bill, or water and/or electric will be shut off, as applicable.
- E. Any dispute of the billed services must be presented by the customer to the Town Utility Board within ten (10) days of receiving the billing statement. The Utility Board can and may modify any utility payment as they see fit. Change of Utility Document must be filled out, and submitted to Town Manager prior to Utility Board meeting. Said dispute must be received prior to the disconnection of the customer's utilities. The Town Utility Board will consist of the Town Manager and 2 Town Council members. An alternate council member will be available if a sitting Council member is not available. The Town

Manager will schedule any necessary meetings. The Town Council members shall serve a 1 year term, and is appointed by the Town Council President in January of each year.

F. Pursuant to the internal audit policies, the utility billings of any elected official or Town employee must be reviewed and verified by a chosen representative of the Town to verify that all accounts are up to date and not in arrears and are being properly billed. In the event of late payment or unequal billing, the Utility Board may take correction action at its discretion.

Section 4. Credits for Waste and/or Wastewater Usage.

A. Effective immediately, there will be no credit given for water used that does not go through the wastewater system, including but not limited to washing cars, filling pools, and watering lawns or gardens.

B. Residents may request that a second permanent meter be placed at their residence for the purpose of measuring the water used for these purposes if they wish to not incur wastewater fees. The expense of the second meter and its installation shall be paid by the resident.

C. Residents can rent a temporary meter by provided a \$50 deposit, which is refundable upon return of the meter. Said temporary meter must be returned within 48 hours. The purpose of the temporary meter is measuring the water used for those purposes if they wish to not incur wastewater fees. Said temporary meters shall be at the Town Hall. The temporary meters are available on a first come, first serve basis, and will be installed by a Town employee. Upon returning the temporary meter to the Town Hall, a credit will be applied to the resident's wastewater bill based on the usage indicated on the temporary meter.

D. A resident may go before the Town Council to request a waiver pursuant to special circumstances, but not for the activities indicated in Section 4(A) that could have been accomplished by the use of the temporary meter referred to in Section 4(C). Said waiver shall be at the Town Council's discretion.

Section 5. Disconnection at Customer's Request.

A. For disconnection of electrical or water service upon the customer's request, the customer shall:

- i. Notify the Town at least three (3) business days in advance of the day disconnection is desired; and
- ii Remain responsible for all service used and the billings therefore until service is disconnected pursuant to such notice. When service is disconnected the party who had service for more than 15 days is responsible for any minimum charge for that month. The party with less than 15 days service is only responsible for the actual usage. Trash shall be prorated based upon the number of pickups in the month.

B. Upon request by a customer to disconnect service, the Town shall disconnect the service within three (3) working days of the requested disconnection date.

Section 6. Notice of Involuntary Disconnection.

A. No disconnection notice for nonpayment of electric, water, wastewater, trash or storm water charges may be rendered to a Residential Customer before the date on which the account becomes delinquent.

B. Except as otherwise provided, water service to any Residential Customer shall not be disconnected for a violation of any rule or regulation of the Water Utility or for the nonpayment of a bill, except after ten (10) days prior written notice to the Residential Customer by either:

- i. Mailing the notice to the Residential Customer at the address shown on the records of the utility; or
- ii. Personal delivery of the notice to the Residential Customer or a responsible member of his or her household at the address shown on the records of the utility.

C. Except as otherwise provided, electric service to any Residential Customer shall not be disconnected for violation of any rule or regulation of the Town Utility or for the nonpayment of a bill, except after ten (10) days prior written notice to the Residential Customer by either¹:

- i. Mailing the notice to the Residential Customer at the address shown on the records of the utility; or
- ii. Personal delivery of the notice to the Residential Customer or a responsible member of his or her household at the address shown on the records of the utility.

D. The notice required by this Section must be in language that is clear, concise, and easily understandable to a layperson and shall state the following in separately numbered large typed or printed paragraphs:

- i. The date on which service will be disconnected.
- ii. The specific factual basis and reason for the disconnection.

¹ Ind. Code § 8-1-2-122 applies to municipal utilities. The notice set forth in this section of the Ordinance complies with the requirements of Ind. Code § 8-1-2-122 that energy service may not be terminated to an occupied dwelling because of the failure of a customer to pay his or her energy bill until fourteen (14) days after it services notice upon the customer of its intent to terminate service during the period November 1 of any year and ending the following April 1.

- iii. The telephone number of the utility office that the customer may call during regular business hours in order to question the proposed disconnection or seek information concerning his or her rights.
- iv. State that the customer may refer to this Ordinance as to their rights.

Section 7. Disconnection Without Request and Without Prior Notice.

A. The Town may disconnect service to a customer without request and without prior notice only:

- i. If a condition dangerous or hazardous to life, physical safety, or property exists;
- ii. Upon order by any court or other duly authorized public authority.
- iii. If fraudulent or unauthorized use of water or electric is detected and the Town has reasonable grounds to believe the affected customer is responsible for the use; or
- iv. If the Town's regulating or measuring equipment has been tampered with and the Town has reasonable grounds to believe that the affected customer is responsible for the tampering.

B. The Town may disconnect service to Commercial Customers who have not paid their bills within fourteen (14) days of the due date shown on the bill.

Section 8. Postponement of Disconnection.

The Town shall postpone the disconnection of service to a Residential Customer for ten (10) calendar days if, prior to the disconnect date specified in the disconnect notice, the Residential Customer provides the Town with a medical statement from a licensed physician or public health official that states that the disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the Residential Customer. The postponement of disconnection shall be continued for one (1) additional ten (10) day period upon the provision of an additional such medical statement.

Section 9. Prohibited Disconnections.

The Town may not disconnect service to the customer:

A. Upon the customer's failure to pay for:

- i. Merchandise or appliances purchased from the Town;
- ii. The service rendered at a different metering point, residence or location if

the bill has remained unpaid for less than forty-five (45) days;

iii. Services to a previous occupant of the premises to be served, unless the utility has good reason to believe the customer is attempting to defraud the utility by using another name; or

- iv. A different form or class of utility service.

B. If a Residential Customer shows cause for his or her inability to pay the full amount due (financial hardship shall constitute cause) and the Residential Customer:

- i. Pays a reasonable portion of the bill (\$10) or one-tenth (1/10) of the bill, whichever is less, unless the Residential Customer agrees to a greater portion.

- ii. Enters into a written agreement prepared by the Town and signed by the Residential customer and by a representative of the Town containing the following terms:
 - a. Customer agrees to pay the remainder of the outstanding bill within three (3) months;
 - b. Customer agrees to pay all undisputed future bills for service as they become due; and
 - iii. Has not breached any similar agreement with the Town made pursuant to this rule within the past twelve (12) months.
- C. If a Residential Customer is unable to pay a bill that is unusually large due to prior incorrect readings of the meter, incorrect application of the rate schedule, incorrect connection or functioning of the meter, prior estimates where no actual reading was taken for over two (2) months, stopped or slow meter, or any human or mechanical error of the utility, and the Residential Customer:
- i. Pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the six (6) bills immediately preceding the bill in question;
 - ii. Enters into a written agreement prepared by the Utility Board and signed by the Residential Customer and by a representatives of the utility board containing the following terms:
 - a. Customer agrees to pay the remainder at a reasonable rate;
 - b. Customer agrees to pay all undisputed future bills for service as they become due; and
 - c. Town may not add to the outstanding bill any late fee.

- D. Except under the conditions set forth in Section 5 (Disconnection at Customer's Request) and Section 7 (Disconnection Without Request and Without Prior Notice), the Town shall not disconnect service unless it is done between the hours of 8:00 a.m. and 3:00 p.m., prevailing local time.
- E. The Town may not disconnect service for nonpayment on any day on which the utility office or Town Hall is closed to the public or after 12:00 p.m. (noon) on the day immediately preceding any day on which the utility office is not open to the public.

Section 10. Prohibited Disconnections from December 1 through March 15.

- A. Pursuant to Ind. Code § 8-2-2-121(a) and 170 IAC 4-1-16.6(a), from December 1 through March 15 of any year, the Town shall not terminate electric service for persons who are receiving or who are eligible for and have applied for assistance from a heating assistance program administered under Ind. Code § 4-4-33.
- B. Pursuant to 170 IAC 4-1-16.6(b), during the period of December 1 through March 15, the Town may not disconnect service to Residential Customers if:
- i. The customer's eligibility to receive benefits pursuant to I.C. 4-4-33 is being determined by the Indiana housing and community development authority or its designee after the submission of a complete application for benefits by the customer; and

ii. The customer has furnished to the Town proof of his or her application to receive such benefits or the Town has been notified, in writing, by the Indiana housing and community development authority or its authorized representatives.

C. Pursuant to Ind. Code § 8-1-2-121(b), the Town shall provide any Residential Customer whose account is delinquent an opportunity to enter into a reasonable amortization agreement with the Town to pay the delinquent account. The amortization agreement must provide the Residential Customer with adequate opportunity to apply for and receive benefits of any available public assistance program. An amortization agreement is subject to amendment on the Residential Customer's request if there is a change in the customer's financial circumstances.

D. Pursuant to Ind. Code § 8-1-2-121(e) and 170 IAC 4-1-16.6(c), this Section does not prohibit the Town from terminating electric service to a Residential Customer upon request of the customer or under the following circumstances:

i. If a condition dangerous or hazardous to life, physical safety, or property exists;

ii. Upon order by any court or other duly authorized public authority.

iii. If fraudulent or unauthorized use of water or electric is detected and the Town has reasonable grounds to believe the affected customer is responsible for the use; or

iv. If the Town's regulating or measuring equipment has been tampered with and the Town has reasonable grounds to believe that the affected customer is responsible for the tampering.

Section 11. Disconnection Procedure

A. Immediately before the actual disconnection of service, the employee of the Town designated to perform the disconnection shall:

- i. Make reasonable attempt to identify himself/herself to the customer or any other responsible person then upon the premises;
- ii. Announce the purpose of his/her presence;
- iii. Make a record thereof to be maintained for at least thirty (30) days;
- iv. Have in his/her possession information sufficient to enable him/her to inform the customer or other responsible person of the reason for disconnection, including the amount of the customer's delinquent bill.
- v. Request from the customer any available verification that the outstanding bill has been satisfied.

B. Upon being presented with credible evidence that the outstanding bill has been satisfied or written documentation from the Town addressed to the customer confirming that the outstanding bill is disputed by the customer and is under review by the Town, service shall not be disconnected.

C. The utility employee shall not accept payment from the customer or responsible person in order to prevent the service from being disconnected.

D. When the employee has disconnected electrical or water service, the employee shall give to a responsible person at the customer's residence or, if no one is at home, the employee shall leave at a conspicuous place on the customer's premises a notice stating that service has been disconnected and stating that the customer may arrange to have service reconnected by contacting the Utility Office at the Town Hall located at 205 East Walnut Street or by telephone at 219-984-5494 during regular office hours.

E. The Town may assess a disconnection fee to the customer once the disconnection of services is complete.

Section 12. Disconnection of Water Service for Failure to Pay Wastewater Bills A.

Pursuant to Ind. Code § 8-1.5-3-4(d), the Town may discontinue water service to a customer or any property upon the failure by the water consumer or the property owner to pay charges legally due for wastewater service.

B. The water service may not be discontinued by the Town for nonpayment of wastewater service charges until the charges have been due and unpaid for at least thirty (30) days.

C. Pursuant to Ind. Code § 8-1.5-3-4(e), the Chalmers Town Council hereby designates the Town's Wastewater Utility to, before water service is discontinued under this Section, give written notice to the water consumer or property owner of its intention to discontinue water service if the unpaid wastewater service charges are not paid before the date specified in the notice. The notice must be mailed not less than ten (10) days before owner at his/her last known address.

- D. The remedy provided herein for the collection of delinquent wastewater charges shall not be continued to abridge or in any manner interfere with the right and power of the Town to enforce the collection thereof by any other action or as otherwise provided by statute.

Section 13. Reconnection of Electric and Water Service.

- A. The Town shall charge a reasonable reconnection charge of \$50 for each utility. Said reconnection fee will be nonrefundable and shall not be applied to the outstanding balance if the customer fails to meet the requirements listed below for reconnection.

- B. The Town shall reconnect the service to the customer as soon as reasonably possible, but within one (1) business day after it is requested to do so. However, the Town shall not be required to reconnect service until:

- i. The conditions, circumstances or practices that caused the disconnection have been corrected;
- ii. Payment of all delinquent charges owed to the Town and the reconnection fee have been paid;
- iii. If the water service was disconnected, a responsible person is present in the premises to ensure that all water outlets are closed to prevent damage to the customer's property from escaping water.

Section 14. Repealer

- A. All ordinances or parts of ordinances in conflict with provisions of this ordinance are hereby repealed.

B. This Ordinance does not affect any other section of the Chalmers Municipal Code, or other ordinances except as herein provided and all other sections of the Chalmers Municipal Code, and other ordinances shall remain the same.

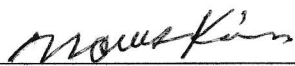
Section 15. Severability.

The sections, paragraphs, sentences, clauses, phrases or words of this Ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this Ordinance.

Section 16. Effective Date.

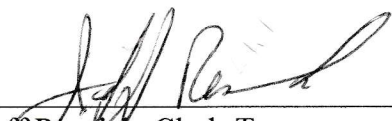
This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

Passed and adopted by the Town Council of the Town of Chalmers on the 10th day of OCTOBER, 2016.



Marcus King, President

Attested by:



Jeff Resnick, Clerk-Treasurer